

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANDY VANAKA GORDON,

Defendant-Appellant.

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UNPUBLISHED

June 27, 2006

No. 261838

Wayne Circuit Court

LC No. 04-010074-01

Before: Davis, P.J., and Sawyer and Schuette, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to three years' probation on the felon in possession conviction, and to the mandatory two-year prison term for the felony-firearm conviction. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On September 9, 2004, police executed a search warrant at 19519 Bradford in Detroit. Three weapons, including two revolvers and one long shotgun, were found in the house. Defendant was at the home, working on a van in the backyard at the time of the search. Defendant's driver's license listed 19519 Bradford as his address.

The parties stipulated that defendant had a prior conviction of attempted carrying a concealed weapon (attempted CCW). Defendant's one-year term of probation for that prior conviction was completed more than five years prior to the execution of the instant search warrant.

Defendant argued to the trial court that attempted CCW was not a specified felony for purposes of MCL 750.224f, and therefore his right to possess a firearm was automatically restored on the expiration of three years after all conditions related to that prior conviction were fulfilled. The trial court held that the underlying crime of attempted CCW is a specified felony, thereby requiring a period of five years to pass and requiring defendant to have his right to carry a firearm restored as provided by statute. Because there was no evidence showing that defendant had his right restored, he was convicted of felon in possession of a firearm and felony-firearm.

"Statutory interpretation is a question of law reviewed de novo on appeal." *People v Williams*, 226 Mich App 568, 570; 576 NW2d 390 (1997).

Michigan statutes prohibit a person convicted of a felony from possessing a firearm in Michigan until three years after he has paid all fines, served all terms of imprisonment, and completed all conditions of probation imposed for the felony. MCL 750.224f(1). If a person is convicted of a specified felony, however, then five years must pass after all fines, terms of imprisonment and conditions of probation imposed for the felony are served. Additionally, a person previously convicted of a specified felony must have his right to possess a firearm restored according to the statute. MCL 750.224f(2).

“As used in this section, ‘felony’ means a violation of a law of this state . . . that is punishable by imprisonment for 4 years or more, or an attempt to violate such a law.” MCL 750.224f(5).

As used in subsection (2), “specified felony” means a felony in which 1 or more of the following circumstances exist:

\* \* \*

(iii) An element of that felony is the unlawful possession or distribution of a firearm. [MCL 750.224f(6).]

The definitions of “felony” and “specified felony” overlap in MCL 750.224f. *People v Parker*, 230 Mich App 677, 686; 584 NW2d 753 (1998). The definition of “felony” found in subsection (5) applies to all uses of the term “felony” throughout the whole section, including the definition of “specified felony” found in subsection (6). *Id.* Subsection (6), however, also “outlines what *additional* requirements must be met in order for a felony to also be a specified felony.” *Id.* (emphasis in original). Accordingly, the terms “felony” and “specified felony” are overlapping categories with all specified felonies also being felonies. *Id.*

In *Parker*, the question was whether an attempted possession of cocaine was a specified felony that was accompanied by the more stringent requirements to be met before a felon could possess a firearm. *Id.*, 677. This Court concluded, “if an individual is convicted of the attempted violation of law, and that attempt involved ‘the unlawful manufacture, possession... or dispensing of a controlled substance,’ then such an individual has been convicted of a specified felony under MCL 750.224f.” *Id.*, 687.

The logic of *Parker* that dealt specifically with controlled substances per subsection (6)(ii) is also applicable to subsection (6)(iii) dealing with the unlawful possession of firearms. Therefore, if an individual is convicted of the attempted violation of law, and that attempt involved “the unlawful possession or distribution of a firearm,” then such an individual has been convicted of a specified felony under MCL 750.224f.

The parties in this case stipulated that defendant had a prior conviction of attempted CCW. There was no argument that such conviction involved anything other than the unlawful possession of a firearm. Accordingly, the prior conviction was a specified felony, and before defendant could again possess firearms, five years had to pass after all fines were paid, all terms of imprisonment served, and all conditions of probation completed. MCL 750.224f(2). Additionally, defendant’s right to possess a firearm had to be restored pursuant to MCL 28.424.

MCL 750.224f(2)(b). No evidence was presented or argument made that defendant's right to possess firearms had been restored.

Affirmed.

/s/ Alton T. Davis  
/s/ David H. Sawyer  
/s/ Bill Schuette